

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5327 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NATHABHAI S PATEL

Versus

STATE OF GUJARAT

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Appearance:

None present for the Petitioner  
Mr. N.N. PANDYA for Respondent.

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/07/96

ORAL JUDGEMENT

1. The petitioner, a retired primary teacher, filed this Sp. Civil Appliation in this Court with a grievance that the respondents while fixing of his pension, his services were not properly taken. He served the institution for 32 years, but the services were taken to be less than 32 years. The reply to this Sp. Civil Application has been filed and the respondents have come

up with a case that during the period 1970-71 and 1971-72 in the school, the petitioner was posted as an excess teacher, and as such, the Government is not responsible for that period in respect of pension, gratuity etc. The respondent has further stated that some audit objections were there and these objections were not replied. The respondent further states that the Government can only pass an appropriate order to count that period for calculating the retirement benefits, for which the petitioner has to approach the Government. The petitioner has been informed of this fact, but instead of approaching the Government, he filed this Special Civil Application before this Court.

2. I have gone through the contents of this Special Civil Application and the reply filed by the respondent. I am of the view that two technical approaches have been made by the respondent. In case, the petitioner was excess teacher for two years at the institution, the Government is competent to condone that period and count that period of service for computing the retirement benefits. The matter could have been taken suo motu rather than to compel the petitioner to approach this Court. However, the interest of justice will be met in case this writ petition is disposed of with the directions that this Sp. Civil Applications be treated to be a representation to the Government, and the Government shall pass an appropriate order within a period of two months from receiving the ceritifified copy of this order. In case the petitioner's grievance is accepted then his pension, gratuity and other retirement benefits should be revised accordingly, and the arrears of the fixation of pension, gratuity etc. should be paid to him within two months thereafter. In other case to pass a reasoned order. The rule stands disposed of in the aforesaid terms.

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